

**M e m o r a n d u m****385.0790**

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Newspaper publisher's weekly shopper delivered to non-subscribers

A newspaper publisher publishes a daily newspaper which qualifies as a tax-exempt newspaper under Revenue and Taxation Code Section 6362. In addition, the same publisher also publishes a weekly shopper which consists primarily of advertising matter. In addition to the advertising printed in the weekly shopper, advertising inserts which are either printed by the publisher or received by the publisher from other printers or advertisers are included as part of the weekly shopper. The publisher distributes the weekly shopper free of charge only to the persons who do not subscribe to the publisher's daily newspaper. The majority of advertising matter and the majority of news and information included in the weekly shopper are also included as a component part of that day's edition of the publisher's daily newspaper.

For purposes of determining whether or not the weekly shopper is an exempt newspaper, the shopper must independently qualify as exempt under the tests set out in Regulation 1590, including the requirement that the advertising portion cannot exceed 90% of the printed area in more than half of the issues of the weekly shopper during any 12-month period. The weekly shopper is not a component part of the newspaper publisher's daily newspaper, even though essentially the same advertising matter and news and information is also included in the daily newspaper.

If the weekly shopper does not independently qualify as an exempt newspaper under Regulation 1590, the newspaper publisher is the consumer of paper, ink, and other tangible personal property which becomes a component part of its taxable weekly shopper. If the publisher has issued a resale certificate for the purchase of these items, it must report and pay use tax to the Board when it consumes these items in the printing of the weekly shopper. The publisher is not liable for tax on its sales of advertising space to advertisers in the weekly shopper, since this is a service transaction only.

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